IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.41 OF 1999

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Shri Chhatrapati Shahu SSK
Limited, Kagal .. Respondent.

Mr.Ashok Kotangale with Mr.Parag Vyas
for the applicant.

Mr.Pramod Vaidya i/b. S.N. Inamdar
for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case the ITAT relying on the decision of its Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the following additions made on account of Hutment Fund, C.M.'s relief fund, Flood relief fund and small savings fund by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?
>
> Whether on the facts and in the circumstances of the case, of Shri Chhatrapati SSK Ltd.

(198 ITR 78 - AT) was right in deleting the additions made on account of Non-refundable deposits, cane development fund, area development fund, interest on NRD by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?

2. In so far as all other items except cane development fund and area development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Cane Development Fund and area development fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)